IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.591 OF 2007

Shri.Vishal Motumal Dhakkan .. Applicant.

Versus

The State of Maharashtra .. Respondent.

Ms.Pooja Bhojne i/b. Mr.Nitin Sejpal for the applicant.
Mr.S.R.Shinde, A.P.P. for the respondent.

CORAM : R.M. SAVANT, J.
(VACATION JUDGE)
DATE : 14th MAY, 2007.

P.C.:

1. This Court vide its order dated 9th May, 2007 in the above application had directed the Dean of J.J.Group of Hospitals to submit a report to this Court regarding the condition of the applicant as he is an AIDS patient. Accordingly, the Medical Superintendent of J.J.Group of Hospitals vide his letter dated 11th May, 2007 has submitted a report to this Court. The same is taken on record and marked as "X" for identification. The last two paragraphs of the said report are relevant and are

reproduced hereunder :-

> "Due to his incurable illness and prolonged Hospital stay he sometimes looses his temper and quarrels with doctors, nurses and police personnels. He is in JJH for last two years & he may remain in the hospital for another coming few years.
>
> Therefore we humbly request he should be transferred to prison hospital in Arthur Road Jail where the present treatment can be continued because he does not require any special treatment. He needs only supportive treatment which is available in prison hospital and if needed he can be referred to JJH as and when required."

2. The learned A.P.P. Mr.S.R.Shinde also tendered a letter dated 21st March, 2007 of the Senior Inspector of Police, Kandivali (W), Mumbai addressed to the Public Prosecutor. The said letter discloses that the wife of the applicant is continuously staying in the ward wherein the applicant is lodged. The letter further goes on to

state that the applicant is kept in a male ward where the females are not permitted to stay at night, but the wife of the applicant is staying in the hospital continuously. This according to the Police Officer, would create a bad precedence and other patients also may demand similar facility. Looking to the report of the Medical Superintendent of J.J. Group of Hospitals as mentioned hereinabove as also the letter of the Senior Inspector of Police dated 21st March, 2007, no reliefs can be granted to the applicant. The Authorities would be free to take a decision as to where the applicant is to be kept either in the hospital or in the prison, looking to the physical condition and medical needs of the applicant. It is made clear that no permission has been granted to the wife of the applicant to stay with him as prayed for.

3. The application is accordingly disposed of.

(R.M. SAVANT, J.)